

IN THE COURT OF APPEALS OF IOWA

No. 0-554 / 09-1743
Filed August 25, 2010

WILLIAM N. PLYMAT JR.,
Plaintiff-Appellant,

vs.

**ERIC ANDERSON, DAVID ENERSON,
KEITH HILDRETH, KIM SWANSON,
STEVE WEISMAN, VIOLA WEST,
DEDE ABBOTT, DOUGLAS R. HANSEN,
JIM JENSEN, ALAN MADDEN, RON SMITH,
ROGER ANDERSON, RANDY BEAVER,
and IOWA DEPARTMENT OF
NATURAL RESOURCES,**
Defendants-Appellees.

Appeal from the Iowa District Court for Emmet County, Donald J. Bormann, District Associate Judge.

A plaintiff claims that the district court erred in granting the defendants' motion to dismiss the petition. **AFFIRMED.**

William Plymat, Thornton, appellant pro se.

Scott J. Beattie of Peddicord, Wharton, Spencer, Hook, Barron & Wegman, L.L.P., Des Moines, for appellees.

Considered by Vaitheswaran, P.J., and Eisenhauer and Danilson, JJ.

VAITHESWARAN, P.J.

William Plymat filed a petition against several individuals and a State agency. Plymat mailed the defendants copies of the petition and original notice by ordinary mail. The defendants moved to dismiss the lawsuit for failure to properly serve them and for failure to state a claim upon which relief can be granted. They also moved for a change of venue from the county where Plymat resided to the county where the action arose. The district court changed venue and ordered Plymat to “appropriately serve the defendants with personal service.”

Plymat took no action to effectuate personal service and did nothing to pursue the lawsuit. Two and a half years elapsed, and the defendants moved to dismiss the lawsuit for want of prosecution. The district court overruled that motion but scheduled a hearing on the defendants’ original motion to dismiss. Following the hearing, the district court concluded that Plymat did not attempt to comply with the rules of personal service and disregarded the court’s earlier order requiring personal service. For these reasons, the court declined to approve alternate means of service as requested by Plymat. The court dismissed the petition for failure of appropriate service and, in the alternative, for failure to state a claim upon which relief can be granted.

On appeal, Plymat asserts that the district court erred in (1) changing venue, (2) dismissing his petition for failure to properly serve the defendants, and (3) dismissing his petition for failure to state a claim upon which relief can be granted. We find the second issue dispositive.

Personal service may be effectuated in several ways. See Iowa R. Civ. P. 1.305. Delivery by ordinary mail is not one of them. Plymat concedes this is the only means he used to apprise the defendants of the lawsuit. He does not assert that he attempted personal service or informed the court that he was unable to effectuate service in this manner. Accordingly, the district court did not err in granting the motion to dismiss for failure to properly serve the defendants. We find it unnecessary to address the remaining issues raised by Plymat.

AFFIRMED.